STATE OF CALIFORNIA
PETE WILSON, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

September 11, 1995

VIA FEDERAL EXPRESS

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20036

Re: CC Docket No. 95-116

Dear Mr. Caton:

Please find enclosed for filing an original plus eleven copies of the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in the above-referenced docket.

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed, postage pre-paid envelope.

Very truly yours,

Ellen S. LeVine
Attorney for California

ESL:cip

Enclosures (13)

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
	)	

COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING

The People of the State of California and the Public Utilities Commission of the State of California ("California" or "CPUC") hereby respectfully submit their comments on the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) in CC Docket No. 95-116, RM 8535 (July 13, 1995) concerning telephone number portability.

In its NPRM, the FCC tentatively concludes that the portability of geographic telephone numbers benefits consumers and will contribute to the development of competition among alternative providers of local telephone and other telecommunications services. The FCC also tentatively concludes that it should assume a leadership role in developing a national number portability policy due to the impact of telephone number portability on interstate telecommunications. Given these conclusions, the FCC asks whether it should promulgate rules for

number portability.[1]

We agree with the FCC's tentative conclusion that number portability will contribute to the development of competition. The CPUC itself is currently examining service provider number portability as one component in the development of local competition. However, because we are only in the beginning stages of this examination, we cannot comment further at this time. Furthermore, while we agree with an FCC leadership role on national location portability solutions, we urge the FCC to allow states such as California that are evaluating service provider number portability as part of the emergence of local exchange competition to move forward with their existing and future trials, evaluations, and implementation of number portability solutions. Indeed, any national solutions considered by the FCC should work in concert with any service provider portability solutions adopted in a given state.

The CPUC urges that any rules that the FCC develops consider the timely information emerging from the various states currently

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1. In its NPRM, the FCC defines three basic types of number portability: service provider portability, service portability, and location portability. Service provider portability refers to the ability of the end user to retain the same telephone number when changing from one service provider to another. In California, the CPUC has broadened its definition of service provider portability to include retaining an existing number when changing location within the geographic area served by the initial carrier's serving central office. Service portability refers to the ability of the end user to retain the same telephone number when changing from one type of service to another (for example, from POTS to ISDN). Location portability refers to the ability of end users to retain their numbers when moving from one location to another.

examining number portability issues and solutions. We believe that it is premature for the FCC to conclude in its NPRM that implementation of different number portability solutions would have a significant impact on the provision of interstate telecommunications services. Before any conclusions are drawn, further trials of various number portability models must be completed. These further trials may indicate that different solutions for service provider portability in a local calling area do not have a significant effect on interstate telecommunications. Also, ongoing state trials and tests may find that the implementation of different solutions may not conflict with nationwide policies and may compatibly coexist in various states and provider networks.

'A. California Number Portability Efforts

The FCC asks whether it should establish technical performance standards for number portability, and what time frame should apply to the FCC's efforts. To answer this question, we describe our own efforts to examine number portability for California and our current schedule.

The CPUC has adopted initial rules for local exchange competition and allowed potential competitive local carriers (CLCs) to file on September 1, 1995 for certification to offer facilities-based local exchange service beginning January 1, 1996 and resale service beginning March 1, 1996. The CPUC intends to implement local exchange competition even though a long term number portability solution does not exist at this time. In the interim, California has ordered incumbent local exchange carriers

(LECs) and CLCs to provide number portability through remote call forwarding (RCF) priced at the LEC's direct embedded cost.

To further advance California's progress on long term solutions, an industry task force composed of representatives from LECs, CLCs, interexchange carriers, wireless service providers, switch manufacturers, and CPUC ratepayer advocacy staff was formed. This group, the California Local Number Portability Task Force, adopted a mission statement stating that it will "evaluate, recommend, and ultimately implement a technically and economically feasible solution for service provider number portability." The CPUC has asked this task force to report to the CPUC by January 31, 1996 on criteria for a trial of long term number portability solutions. In addition, a subgroup of the industry numbering committee is examining technical issues regarding number portability and drafting a report for release later this year.

We urge the FCC to allow state and industry efforts such as these to continue unfettered, even if the FCC should later choose to examine technical standards for number portability. Accordingly, the FCC should defer to states and industry groups to develop technical standards for at least one year to allow for state and industry evaluation of the various trials already scheduled or underway and to make technical adjustments as appropriate. After that time, the FCC may elect to revisit technical standards if industry and state progress is not sufficient.

We emphasize our position that any FCC efforts to promulgate rules for number portability or technical standards should not

restrict California's ability to employ interim number portability solutions during our initial implementation of local exchange competition or to examine, test, and implement long term solutions.

B. Proposed Number Portability Solutions

The FCC asked for comment on the various number portability proposals that have been offered by different industry participants (such as MCI Metro, AT&T, and GTE), which encompass service provider, service, or location portability. In addition, the FCC asks for comment on which database architectures would best serve the public interest.

The CPUC cannot comment on any of the proposed solutions or database architectures at this time until the California Local Number Portability Task Force evaluates the various solutions and then forwards recommendations to the CPUC. However, our preliminary opinion is that while service provider portability is arguably essential for the development of local competition, service and location portability do not appear to have the same public interest importance. If customers must change telephone numbers to change service providers, the incumbent local exchange provider could have an advantage in keeping customers, thereby hindering the development of competition. In contrast, the absence of service and location portability does not pose the same threat to the development of competition in local markets because service and location changes do not necessarily involve a change in service providers.

Also, GTE's solution requires customers who want portability to change their telephone number to a 700 number that would then be fully portable. Our preliminary assessment is that solutions such as GTE's that require consumers to change to a new phone number defeat the purpose of service provider portability and do not resolve number exhaust problems. We prefer a solution that allows customers to change service providers and retain the number they have today. While we do not wish to disallow consideration of GTE's solution as it may pertain to service or location portability, we are concerned that it does not effectively provide service provider portability in a local calling area.

C. Studies and Data on Number Portability

We are aware that several interested parties have performed various studies to attempt to determine the relative importance of number portability to customers. Other parties may mention these studies in their comments on this NPRM to support the contention that number portability is not important to local competition because customers will change service providers without it.

We firmly believe that the methodologies and conclusions of these studies must be carefully examined before making further conclusions about the studies' significance and the overall importance of number portability to the development of local competition. In some cases, the findings of the study may be inconclusive and only increase the debate over the significance of number portability. For example, one study we are aware of

suggests that if customers are offered number referral and call transfer for a given time period, they have about the same willingness to switch local telephone service providers as when offered number portability. However, upon further examination, the study shows that approximately 10 percent more customers are willing to switch providers when offered portability as opposed to call referral and call transfer. Critics of the study argue that a 10 percent difference in market share can have significant meaning to a new competitor in the local exchange market. Because of these differences in interpretation, we reiterate that further studies and technology tests are required such as the work currently in progress in various states.

D. Additional FCC Questions

1. What is the competitive significance of service provider portability for the development of competition between wireline and wireless service providers?

The CPUC believes that ultimately, any valid long term number portability solution should allow wireless customers to receive portability. In the short term, however, in the interest of testing and implementing a service provider portability solution as soon as practical, California may consider solutions that do not yet provide portability between wireless providers or between a wireline and wireless provider. It is our current understanding that before recommending a potential solution to the CPUC, the California Local Number Portability Task Force will consider and evaluate that solution's potential to expand to wireless portability in the future. Because of technical and

economic feasibility concerns, it may not be appropriate to require local number portability between wireline and wireless service providers at this time.

2. Is it in the public interest to require only that carriers make available interim measures that accommodate number portability and not require the implementation of a longer-term number portability solution?

The CPUC has decided that in California, interim portability measures alone will not suffice. Although California has chosen remote call forwarding (RCF) as an interim portability solution, we recognize the shortcomings of RCF, which uses two unique phone numbers per forwarded number and therefore contributes to California's severe number exhaust dilemma. Consequently, we intend to examine, test, and consider implementing a long term service provider portability solution through our local exchange competition rulemaking. Conservation of numbering resources will undoubtedly constitute a key criterion in any solution we choose.

3. Should LECs be allowed to recover implementation costs through rates? How should costs be allocated between federal and state jurisdictions? Comment on the costs of interim number portability and whether parties that directly benefit from interim number portability pay the costs of its implementation

For interim portability through RCF, the CPUC has already concluded that CLCs shall be able to purchase RCF from the LEC at the LEC's direct embedded cost for RCF. This interim cost recovery provision adheres to the principle of cost causation wherein those entities demanding a service bear its costs.

We cannot comment on the recovery of long term portability implementation costs because this would prejudge our proceeding on local competition where we intend to examine long term cost recovery issues. However, we suggest that when examining the issue of cost recovery and allocation of costs between federal and state jurisdictions, the FCC should consider the following issues:

- For any cost recovery method, what are the ramifications of this method on CLCs and LECs? If costs are allocated between federal and state jurisdictions, how will this allocation reflect that both CLCs and LECs may be interstate corporations?
- Should the incumbent LECs or an independent entity perform cost studies to determine the cost of implementing portability on LEC networks? Should an intercompany settlements process be considered for payments from CLCs to LECs to reimburse the LEC for portability implementation costs?

The CPUC expects to consider questions such as these during our own proceeding on local competition.

4. The FCC presented tentative conclusions that any number portability proposal should support operator service, E911 services, and the efficient use of telephone numbers.

The CPUC agrees with these tentative conclusions.

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CONCLUSION

The CPUC agrees with the FCC's tentative conclusion that number portability will contribute to the development of competition, and we emphasize that an interim solution will not suffice. Given the need for a long term portability solution, we urge the FCC to allow states such as California that are already evaluating service provider portability solutions to move forward with their trials and implementation efforts. If allowed to continue, these ongoing state efforts can determine whether different solutions for number portability may compatibly coexist in various states and provider networks.

Respectfully submitted,

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By: 
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September 11, 1995

CERTIFICATE OF SERVICE

I, Ellen S. LeVine, hereby certify that on this 11th day of September, 1995 a true and correct copy of the foregoing **COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING** was mailed first class, postage prepaid to all known parties of record.

Ellen S. LeVine

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